

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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EXCELLED SHEEPSKIN & LEATHER COAT
CORP.,

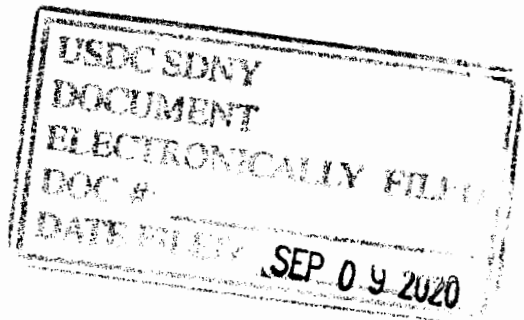
Plaintiff,

-against-

OREGON BREWING COMPANY,

Defendant.
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GEORGE B. DANIELS, United States District Judge:



MEMORANDUM DECISION
AND ORDER

12 Civ. 1416 (GBD) (SDA)

Plaintiff Excelled Sheepskin & Leather Coat Corp. brought this action against Defendant Oregon Brewing Company on February 24, 2012, alleging violations of the Lanham Act, 15 U.S.C. § 1051, *et seq.* (Compl., ECF No. 1.) On August 5, 2014, this Court granted Plaintiff's motion for summary judgment on trademark infringement against Defendant, and also granted Plaintiff's motion for summary judgment dismissing Defendant's counterclaims. (Mem. Decision and Order, ECF No. 109.) On July 27, 2018, the Second Circuit vacated in part, reversed in part, and remanded this Court's August 5, 2014 memorandum decision and order. *See Excelled Sheepskin & Leather Coat Corp. v. Oregon Brewing Company*, 897 F.3d 413 (2nd Cir. 2018). Shortly thereafter, this Court granted Defendant's motion for partial summary judgment consistent with the mandate issued by the Second Circuit, (Mem. Decision and Order, ECF No. 172), and entered judgment on December 6, 2019, (Rule 54(b) J., ECF No. 175). Defendant then moved for an award of attorney's fees and costs pursuant to Federal Rule of Civil Procedure 54(d)(2). (Oregon Brewing Company's Mot. for Att'y's Fees and Costs, ECF No. 176.)

Before this Court is Magistrate Judge Stewart D. Aaron's August 20, 2020 Report and Recommendation (the "Report"), recommending that Defendant's motion for attorney's fees and

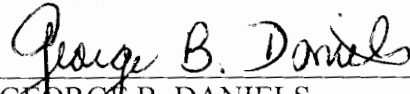
costs be denied.¹ (Report, ECF No. 196, at 5.) Magistrate Judge Aaron advised the parties that, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.*) No objections have been filed. Having reviewed the Report for clear error and finding none, this Court ADOPTS the Report.

A court “may accept, reject, or modify, in whole or in part, the findings or recommendations” set forth in a magistrate judge’s report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge’s report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when, “upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation omitted).

This Court has reviewed the Report, and finds no error, clear or otherwise. Magistrate Judge Aaron’s Report is ADOPTED. Accordingly, for the reasons stated in the Report, Defendant’s motion for attorney’s fees and costs, (ECF No. 176), is DENIED. The Clerk of the Court is directed to close the motion accordingly.

Dated: New York, New York
September 9, 2020

SO ORDERED.



GEORGE B. DANIELS
United States District Judge

¹ The relevant factual and procedural background is set forth in greater detail in the Report and is incorporated by reference herein.